



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

APR 28 2006

Alan W. Klimek, P.E., Director
Division of Water Quality
North Carolina Department of Environment and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Mr. Klimek:

The Environmental Protection Agency (EPA) has completed its Clean Water Act (CWA) Section 303(c) review of North Carolina's action to reissue the chloride variances for Mount Olive Pickle Company and Bay Valley Foods, LLC (formerly Dean Pickle and Specialty Products Company). In accordance with Section 303(c) of the Clean Water Act and 40 CFR Part 131, EPA hereby approves both variances.

The variances for chloride were reissued by North Carolina on December 12, 2005, with an effective date, January 1, 2006, which is the same as the effective date for reissuance of National Pollutant Discharge Elimination System (NPDES) permits No. NC0001074 (Mount Olive) and NC0001970 (Bay Valley Foods). The chloride variances were certified as "duly adopted in accordance with N.C.G.S. § 143-215.3(e) and 15A NCAC 2B .0226, following public notice, public comment, additional information submitted by Mount Olive Pickle Company and Bay Valley foods, LLC, and consideration by the NPDES Committee of the Environmental Management Commission." This was certified by Francis W. Crawley, North Carolina Special Deputy Attorney General, in a letter dated February 8, 2006, to EPA Region 4 Regional Administrator, which was hand-delivered to EPA on February 28, 2006.

Mount Olive Pickle Company

Mount Olive owns and operates a pickle manufacturing facility in Wayne County, North Carolina and discharges wastewater to Barlow Branch, a Class C-Swamp water. On June 12, 1997, EPA approved a variance to the chloride action level of 230 mg/l (*Surface Waters and Wetlands Standards*, 15A NCAC 2B .0211(4)).

The original variance, issued in 1996, was based on the facility's level of treatment performance at that time (monthly average: 22,550 lbs/day; daily max: 39,240 lbs/day). The facility has pursued waste minimization techniques since 1996, which have significantly reduced the discharge of chlorides. The new permit limits more accurately reflect the highest attainable level of effluent quality based on the past advances and demonstrated level of performance for chloride removal. The new permit includes a 29% decrease for monthly average (16,047 lbs/day) and a 37% decrease for daily max (24,555 lbs/day). While these are still significantly higher than the State action level, they indicate a downward trend toward the action level as contemplated in the original issuance of the variance. At this time there are no proven end-of-

pipe technologies for reducing the chloride limits further, leaving waste minimization as the most proven technology that is economically feasible. EPA concurs with the State, pursuant to 40 CFR Section 131.20 that information available at this time, does not show that the CWA Section 101(a)(2) uses are attainable, and continuance of the variance conditions is consistent with the CWA and 40 CFR Part 131.

Bay Valley Foods, LLC

Bay Valley Foods owns and operates a pickle manufacturing facility in Duplin County, North Carolina and discharges wastewater to an unnamed tributary to Panther Branch, a Class C-Swamp water. On June 12, 1997, EPA approved a variance to the chloride action level of 230 mg/l (*Surface Waters and Wetlands Standards*; 15A NCAC 2B .0211(4)).

The previous permit limits were based on the facility's level of treatment performance at that time (monthly average: 15,310 lbs/day; daily max: 26,330 lbs/day). The facility has pursued waste minimization techniques since 1996, which have significantly reduced the discharge of chlorides. EPA requested that the new permit limits more accurately reflect the highest attainable level of effluent quality based on the past advances and demonstrated level of performance for chloride removal. The permit includes a 12% decrease for monthly average (13,476 lbs/day) and a 27% decrease for daily max (19,120 lbs/day).

The Permittee disputed the new limits due to concerns it would exceed those numbers (as indicated by historical data). However, during meetings with EPA and the State, it was determined that past high chloride levels were associated with rainfall events. After extensive evaluation, the Permittee proposed upgrades to its detention pond as well as other improvements to the management of stormwater, which would help to achieve the proposed chloride limits. A three-year schedule of implementation was agreed to by all parties. Therefore, an interim limit of 21,875 lbs/day for the daily maximum will be in place until 2008.

The interim and final chloride limits are still significantly higher than the State action level, however, they indicate a downward trend toward the action level as contemplated in the original issuance of the variance. At this time there are no proven end-of-pipe technologies for reducing the chloride limits further leaving waste minimization as the most proven technology that is economically feasible. EPA concurs with the State, pursuant to 40 CFR Section 131.20 that information available at this time does not show that the CWA Section 101(a)(2) uses are attainable, and continuance of the variance conditions is consistent with the CWA and 40 CFR Part 131.

The new permits for both Mount Olive and Bay Valley Foods require them to continue to study and evaluate new and emerging chloride removal technologies. The facilities are also required to use a qualified waste reduction specialist to specifically evaluate source reduction of chloride. Status reports are required March 31 of each year. Bay Valley Foods is also required to complete all activities agreed to in the compliance schedule in order to meet the new permit limits for chloride by 2008.

Both permits reflect a comprehensive review of the chloride variance with associated decreases in permit limits and requirements for continued research. This satisfies the review requested in the 2000-2003 triennial. The next required review of these variances is scheduled for the 2008–2011 triennial. The permits are scheduled to expire on December 31, 2010. The next scheduled basinwide benthic assessment would be completed in 2008, which should provide valuable information for the 2010 review.

There are no federally listed, threatened or endangered species or their critical habitat in Barlow Branch or the unnamed tributary to Panther's Branch. Therefore, approval of the variances for these water bodies as a revision to State water quality standards will have no effect on federally listed, threatened or endangered species or their critical habitat.

The NPDES permitting staff is to be commended for diligently working to ensure that the variances are reflective of the most advanced waste minimization techniques available and are the highest achievable reduction in chloride discharges for both facilities. If you have any questions, please contact me at 404-562-9345 or have a member of your staff contact Ms. Lisa Perras Gordon at 404-562-9317.

Sincerely,



for

James D. Giattina, Director
Water Management Division

cc: Jeff Manning, NCDWQ
Connie Brower, NCDWQ
Tom Belnick, NCDWQ